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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,143	11/17/2003	Diana Lynn Fitzgerald	ANA-101	9451

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EXAMINER	
DEBELIE, MITIKU W	
ART UNIT	**PAPER NUMBER**
2621	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/713,143	FITZGERALD ET AL.	
	Examiner	Art Unit	
	Mitiku Debelie	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 November 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 - 26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 - 26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *17 November 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 8 – 10, 13 and 15 – 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Gelman et al. (U.S. Patent Number 5,371,532).

Regarding claim 1, Gelman discloses a system for storing music, comprising: a device for playing music (see col. 5, line 3); a request that is generated in response to a subscriber request to store music (see col. 3, lines 9 – 21); a transmitter to transmit a request to obtain the music for storage (see col. 2, lines 36 – 40); a music database that is queried to obtain music responsive to the subscriber's request; and a storage device to receive the music and store the music (see col. 5, line 3).

Regarding claim 8, Gelman teaches a system for storing music wherein the music database is provided by a third party (see col. 3, lines 38 - 47).

Regarding claim 9, Gelman teaches a system for storing music wherein the listener is billed to store the music (see col. 1, lines 33 – 37).

Regarding claim 10, Gelman teaches a system for storing music wherein the listener is billed to store the music on per-use bases (see col. 2, lines 23 – 35).

Regarding claim 13, claim 13 is different from claim 1 only in that claim 13 is a method claim corresponding to the apparatus claim 1. Therefore claim 13 has been analyzed and rejected as previously disused with respect to claim 1.

Regarding claim 15, all the limitations of this claim have been analyzed with respect to claim 1.

Regarding claim 16, all the limitations of this claim have been analyzed with respect to claim 8.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 2, 3 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gelman et al. (U.S. Patent Number 5,371,532).

Regarding claim 2, Gelman does not teach a system for storing music wherein the storage device is located in a vehicle. However it is old and well known in the art to place a storage device in a vehicle. Official notice is taken.

Therefore it would have been obvious to one of ordinary skill in the art to incorporate storing of music data in a vehicle in order to have easy and mobile access to the stored music data.

Regarding claim 3, Gelman does not teach a system for storing music wherein the storage device is one of a CD-ROM, a DVD and a RAM. However it is old and well known in the art to use CD-ROM, DVD RAM to store music data. Official notice is taken.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the use of CD-ROM AND DVD RAM in order to take advantage of the higher storing capacity they offer.

Regarding claim 14, Gelman does not teach a system for storing music, which further comprises detecting the push of a button to receive indication from subscriber. However it is old and well known in the art to detect a push of a button from a user. Official notice is taken.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the use of detecting a push of a button in order to be able to receive request from a user.

5. Claims 21 is rejected under 35 U.S.C. 102(b) as being anticipated by Taniwaki (U.S. Patent Number 6,959,419).

Regarding claim 21, Taniwaki discloses a system for storing information, comprising: a seat (120 Fig. 3A) in a movie theater; a card reader (12g Card insertion Slot, Fig. 3B) in the seat to read a card provided by a subscriber; a computer (12b CONTROLL PROCESSOR, Fig. 2) coupled to the card reader to obtain information from the card and to determine an identity of the movie, song and/or movie soundtrack;

a destination computer (11 Fig. 2) to receive the data from the computer; a storage device on which to store the received data from the database;

Taniwaki does not teach a system for storing information comprising a database comprising data corresponding to one or more movies, songs in the movies and movie soundtracks that provides data corresponding to the identified movie, song, or movie soundtrack to the computer. However it is old and well known in the art to store information comprising data corresponding to movies, songs and movie soundtracks. Official notice is taken.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to store such information on a database in order to preserve the data and to facilitate easy access of the same.

Regarding claim 22, Taniwaki does not teach a system wherein a computer is located in a movie theater that shows the movie and the database is queried by the computer to obtain the data corresponding to the identified movie, song or movie soundtrack. However it is old and well known in the art to locate a computer in a movie theater to show movie with a database built in database to identify and obtain movies, songs and soundtrack. Official notice is taken.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the use of a computer to obtain data requested by a computer in relation to movies, songs or movie soundtrack that is being delivered in order to identify users preference and deliver accordingly.

Regarding claim 23, all the limitations of this claim have been analyzed in relation to claim 21 above except the limitation, "a first computer coupled to the card reader to obtain information from the card and to determine an identity of the movie, song and/or movie soundtrack". It is old and well known in the art to couple a computer to another computer in order to get data form the first. Official notice is taken.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to couple a computer to another one in order to transmit data from one location to another.

6. Claims 4 – 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gelman et al. (U.S. Patent Number 5,371,532) as applied to claims 1, 8 – 10, 13 and 15 – 16, and in view of Hagiwara (U.S. Patent Number 7,014,484) and further in view of Koser et al. (U.S. Patent Number 7,233,658).

Regarding claim 4, Gelman does not teach a system for storing music wherein the storage device is located in a telephone and the music is transmitted in a ring tone format for storage as a ring tone in the telephone. However Hagiwara, from the same field of endeavor, teaches a storage device that is connected to a cell phone (see col. 1, lines 13 – 24).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the use of a cell phone as a storage device as taught by

Hagiwara to the storage device of Gelman in order to take advantage of the portability of the cell phone.

The proposed combination of Gelman and Hagiwara does not teach a music storage device wherein the music is transmitted in a ring tone format for storage as a ring tone in the telephone. However Koser et al., from the same field of endeavor, teaches using music as a genre for a ring tone (see col. 16, lines 1 – 16).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the use of ring tone format to store music as taught by Koser to the proposed combination of Gelman and Hagiwara in order to make the reproduction of the music associated with incoming call.

Regarding claim 5, the proposed combination of Gelman, Hagiwara and Koser does not teach a storage device wherein only a portion of the music is stored in the telephone. However it is old and well known in the art to store only a portion of data. Official notice is taken.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate storing only a portion of music data in order to gain easy access for sampling purposes.

Regarding claim 6, all the limitations of this claim have been analyzed in relation to claim 4.

7. Claims 7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gelman et al. (U.S. Patent Number 5,371,532) as applied to claims 1, 8 – 10, 13 and 15 – 16 above, and in view of Eyal et al. (U.S. Publication Number 2007/0177586).

Regarding claim 7, Gelman does not teach a system for storing music further comprising a music play list comprising a list of songs that are played, wherein when the listener makes the request for storing the music, the music play list is consulted to determine which music is being played at the time of the request. Eyal et al., from the same field of endeavor, teaches a system wherein a user makes a selection prom a playlist, which is made up of a plurality of songs (see paragraph [0110]).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the use of a play list, which is made up of a plurality of songs for the user to select from as taught by Eyal to the system of Gelman in order to allow flexibility of reproduction of the music stored.

Regarding claim 17, grounds for rejecting claim 7 apply for claim 17 in its entreaty.

8. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gelman et al. (U.S. Patent Number 5,371,532) as applied to claims 1, 8 – 10, 13 and 15 – 16 above, and in view of Lesley (U.S. Publication Number 2001/0000808).

Regarding claim 11, Gelman does not teach a system for storing music wherein the listener is billed to store the music on periodic bases. Lesley, from a related field of endeavor, teaches a communication service wherein a scheduled program is set up to bill users monthly.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to charge subscribers monthly in order to let the subscribers get right to the music on demand without having to be delayed while making payment transaction.

Regarding claim 12, Lesley from a related field of endeavor, teaches a communication service wherein the listener prepays for the communication service offered.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to setup a prepayment plan for users in order to give users the option of not having to commit.

9. Claims 18 - 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gelman et al. (U.S. Patent Number 5,371,532) as applied to claims 1, 8 – 10, 13 and 15 – 16 above, and in view of Galdos (U.S. Publication Number 2005/0031314).

Regarding claim 18, Gelman does not teach a method for storing music, which further comprises reformatting the music prior to storing, is. Galdos, from the same field of endeavor, teaches reformatting a video data prior to storing (see paragraph [0012]).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate reformatting of music file in order to optimize storage space.

Regarding claim 19, Galdos, from the same field of endeavor, teaches reformatting a video data prior to storing in accordance with the storage device prior to receiving the music for storage (see paragraph [0012]).

Regarding claim 20, claim 20 recites, "The method recited in claim 13, further comprising reformatting the music in accordance with the storage device alter receiving the music for storage." This claim has been analyzed in relation to claims 18 and 19 above (as long as the recording medium is reformatted, reformatting prior to or up on arrival of the music data is a matter of having advance knowledge of what format the music is in or discovering the same up on its arrival).

10. Claims 24 – 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taniwaki (U.S. Patent Number 6,959,419) as applied to claims 21 - 23 above, and in view of Stern (U.S. Patent Number 6,366,914).

Regarding claim 24, Taniwaki does not teach a system for storing movies, song or soundtrack further comprising a third party provider in which the second computer and database are located. However Stern, from the same field of endeavor, teaches a system for storing movies, song or soundtrack wherein further comprising a third party

provider in which the second computer and database are located (see col. 28, lines 51 – 64).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to use a third party provider in which computer and database are located in order to maximize obtainment of data.

Regarding claim 25, Taniwaki does not teach a system for storing movies, song or soundtrack wherein the third party provider is a movie studio. Stern teaches a system for storing movies, song or soundtrack wherein the third party provider is a movie studio (see col. 28, lines 51 – 64).

Regarding claim 26, Stern teaches a system for storing movies, song or soundtrack wherein the third party provider is a record company (see col. 28, lines 51 – 64).

Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitiku Debelie whose telephone number is (571) 270 1706. The examiner can normally be reached on Mon - Fri 8:00 - 5:00 ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on (571) 272 7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MD
09/26/2007